## TITLE 114 LEGISLATIVE RULE INSURANCE COMMISSIONER

### SERIES 38 CONTINUATION OF COVERAGE UNDER AUTOMOBILE LIABILITY POLICIES

§114-38-1. General.
1.1. Scope This rule establishes the form and procedures for notice to be given by insurers to named insureds and spouses of named insureds with regard to the continuation of motor vehicle liability coverage when the named insured dies, becomes legally separated, or terminates his or her marital relationship.
1.2. Authority W. Va. Code §§33-6-36(c), 33-2-10
1.3. Filing Date April 22, 1994
1.4. Effective Date April 22, 1994
§114-38-2. Applicability.
2.1. Applicability This rule applies to all motor vehicle liability policies under which the

named insured is a natural person.

# §114-38-3. Definitions. 3.1. "Commissioner" means the Insurance Commissioner of the State of West Virginia. 3.2. "Named Insured" means any natural person who appears on the records of an insurer as an insured under a motor vehicle liability policy. 3.3. "Insurer" means any insurer offering or providing motor vehicle liability insurance coverage. 3.4. "Policy" means any motor vehicle liability policy. 3.5. "Expiration of Policy" or "Termination of Policy" means the discontinuation of coverage by the insurer under a motor vehicle liability policy as to any named insured or spouse of a named insured for any reason except those permissible reasons for cancellation and non-renewal of policies set forth in W. Va. Code §§33-6A-1 and 4. §114-38-4. Notice of Policy Availability.

4.1. Insurers must provide to all named insureds a notice in the form of Appendix A to this rule:

4.1.1. Either when the policy is issued, or at the first renewal of the policy after this rule is effective, whichever occurs first; and
4.1.2. Upon the occurrence of any change in the policy or termination of the policy for any reason other than those set forth in W. Va. Code §§33-6A-1 and 4.
4.2. The notice required in this section must be provided either by personal delivery or by regular mail addressed to the named insured at the last address appearing for the named insured in the records of the insurer.
§114-38-5. Mandatory Continuation of Coverage Upon Timely Request.
5.1. As to all policies which have been in existence for a continuous period of two full years the insurer must issue a separate policy to any named insured or spouse of a named insured when:
5.1.1. The named insured has died;
5.1.2. The named insured has become legally separated from their spouse; or
5.1.3. The named insured has terminated their marital relationship with their spouse; and
5.1.4. The named insured or the named insured's spouse has made a request to the insurer for the issuance of their own policy and the request was made within thirty (30) days of the expiration or termination of the policy.

5.2. The named insured or spouse of the named insured may make a request for their own policy either in writing to the home office of the insurer or in writing or orally to a local agent of the insurer. In the event of an oral request, the insurer must within thirty (30) days of the request either:
5.2.1. Provide a written confirmation of the request to the named insured or spouse of the named insured; or
5.2.2. Issue a policy to the named insured or spouse of the named insured.
5.3. Property and casualty insurers which are organized for the sole purpose of providing insurance policies to members of a particular organization and which have provisions in their bylaws which prohibit the sale of insurance policies to nonmembers of that organization may condition the issuance of the policies addressed in this rule upon the named insureds' or spouse of the named insureds' continued membership in the organization. If the issuance of a policy is made mandatory by this rule, membership or continued membership in the subject organization shall be offered to the named insured or spouse of the named insured.
§114-38-6. No Lapse in Coverage.
6.1. As to all policies issued pursuant to Section 5 of this rule, there will be no lapse in the coverage provided to the named insured or spouse of a named insured who has requested a separate policy so long as appropriate premiums are paid for all relevant time periods.
§114-38-7. Changes in Coverage Amount.

7.1. Upon the issuance of policies pursuant to Section 5 of this rule, the named insured or spouse of named insured must be permitted by the insurer to increase or decrease coverage amounts to the same extent such coverage options would have been available under the original policy.
7.2. Requests for increases or decreases in coverage made pursuant to subsection 7.1 of this rule, will be effective at the time the request is made to the insurer.
§114-38-8. Severability.
8.1. If any provision of this rule or the application of this rule to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected by the holding.
Appendix A
IMPORTANT NOTICE OF POLICYHOLDER RIGHTS IN EVENT OF DEATH, LEGAL SEPARATION, OR TERMINATION OF MARRIAGE (DIVORCE) OF THE NAMED INSURED

### RIGHT TO REQUEST SEPARATE POLICY

If you have had your auto policy two full years and the named insured either dies, becomes legally separated, or the marital relationship ends (eg. divorce), then each named insured and the named insured's spouse has the right to request their own separate policy with this company.

MUST ACT WITHIN THIRTY DAYS OF END OF YOUR COVERAGE

If any of the situations above apply to you and you are a named insured or named insured's spouse, and you want your own separate policy you must make a request to this insurance company for your own separate policy within thirty days after the date the existing policy ends your coverage.

### IMPORTANT TWO-YEAR POLICYHOLDER PROTECTIONS

Once you have had your auto policy for two full years you earn certain protection from your policy being terminated. After two years West Virginia law won't let your policy be terminated except for certain reasons which are spelled out by statute. If you switch coverage to a different insurance company you will lose these protections.

If you wish to make a request for your own separate policy as explained above please contact us at (appropriate address and telephone number).